

# Agenda Item Form

Agenda Date: 10/05/04

Districts Affected: All

Dept. Head/Contact Information: Human Resources, Terry A. Bond, (915) 541-4509

## Type of Agenda Item:

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> Resolution                       | <input type="checkbox"/> Staffing Table Changes   | <input type="checkbox"/> Board Appointments                   |
| <input type="checkbox"/> Tax Installment Agreements       | <input type="checkbox"/> Tax Refunds              | <input type="checkbox"/> Donations                            |
| <input type="checkbox"/> RFP/ BID/ Best Value Procurement | <input type="checkbox"/> Budget Transfer          | <input type="checkbox"/> Item Placed by Citizen               |
| <input type="checkbox"/> Application for Facility Use     | <input type="checkbox"/> Bldg. Permits/Inspection | <input checked="" type="checkbox"/> Introduction of Ordinance |
| <input type="checkbox"/> Interlocal Agreements            | <input type="checkbox"/> Contract/Lease Agreement | <input type="checkbox"/> Grant Application                    |
| <input type="checkbox"/> Other _____                      |   |   |

## Funding Source:

- ☐ General Fund
- ☐ Grant (duration of funds: \_\_\_\_\_ Months)
- ☐ Other Source: \_\_\_\_\_

## Legal:

☒ Legal Review Required      Attorney Assigned (please scroll down): Lupe Cuellar      ☒ Approved      ☐ Denied

Timeline Priority:    ☐ High      ☐ Medium      ☐ Low      # of days: \_\_\_\_\_

## Why is this item necessary:

After approval by the Civil Service Commission on September 23, 2004. This amendment to Rule 14, Section 7, would change and clarify the procedures for appealing efficiency ratings.

## Explain Costs, including ongoing maintenance and operating expenditures, or Cost Savings:

.N/A

## Statutory or Citizen Concerns:

None anticipated

## Departmental Concerns:

None anticipated

**AN ORDINANCE AMENDING ORDINANCE 8065, CIVIL SERVICE RULES AND  
REGULATIONS, RULE 14, EFFICIENCY RATINGS, SECTION 7, APPEALS, TO  
CHANGE THE PROCESS AND PROCEDURES FOR APPEALS**

**WHEREAS**, the Civil Service Commission is given the authority under Section 6.1-5(A) of the City Charter to recommend amendments to the City's Civil Service Rules; and,

**WHEREAS**, the City Council is the approving authority for amendments to the Civil Service Rules; therefore, the Civil Service Commission presented their recommended changes to City Council; and,

**WHEREAS**, both the Civil Service Commission and the City Council have determined that Civil Service Rules should be amended by changing Rule 14, Efficiency Ratings, Section 7, Appeals, to change the procedures for appealing efficiency ratings;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF  
EL PASO:**

1. That Ordinance 8065, Civil Service Rules and Regulations, Rule 14, Efficiency Ratings, Section 7, Appeals is amended as follows:

**Rule 14, Sec. 7–Appeals**

a. Subject to the provisions of this section, the employee has the right to appeal any regularly scheduled rating he or she considers unfair, discriminatory, or otherwise objectionable, except for any probationary rating not recommending that the employee be made permanent in a probationary position. In the case of such probationary ratings, the employee has the right to place a written statement in his/her personnel file stating any objections to the rating. Any appeal must be made to the Commission within ten working days after the employee has had final review on the rating with his or her department head, or person designated in Section 2. For purposes of any appeal under this section, it shall be presumed by the Commission that the Efficiency Rating accurately reflects the performance of the employee. This presumption may be rebutted by the employee by a preponderance of the evidence. On appeal the Commission will consider only the rater's possible prejudice, or the rater's failure to take into consideration facts or factors which should or should not affect the rating.

Step 1. One or more members of the Commission shall meet and review the appeal. The employee and the Department Head or representative thereof shall present evidence in support of their respective positions. The hearing may be recessed to allow either side an opportunity to gather additional evidence in the event of a claim of surprise. After the hearing is concluded, no further evidence may be received from either party. In cases where less than the Commission as a whole has conducted the hearing, a report shall be submitted to the Commission setting forth all findings adduced at the hearing.

Step 2. Upon consideration of the matters adduced at the hearing, the Commission will render an order denying the appeal, sustaining the appeal and ordering a re-rating of specific factors, the summary evaluation, or the entire evaluation. It shall also set forth in its order the reasons in support thereof.

Step 3. If a re-rating is ordered by the Commission under Step 2, it must be submitted to the Human Resources Director by the Department Head within 60 days, accompanied by a memorandum signed by the Department Head summarizing the changes made to the original evaluation. The memorandum will explain any failure to re-rate according to the Commission's order. In cases where the Commission's order was not followed, in whole or in part, the Human Resources Director shall place an item on the next Commission agenda, and the Department Head shall appear before the Commission to respond to questions from the Commission. After hearing the Department Head, and any response on the part of the employee, the Commission may take such appropriate action as it deems necessary to determine the appeal. No new evidence may be received by the Commission under this Step.

b. If an employee resigns employment with the City of El Paso during the pendency of any appeal under this section, the appeal shall be deemed withdrawn, and no further action shall be taken.

2. Except as expressly herein amended, all provisions of Ordinance 8065, Civil Service Rules and Regulations, Rule 14, Efficiency Ratings, Section 7, Appeals, remain the same and are in full force and effect.

PASSED AND APPROVED this 19<sup>th</sup> day of October 2004.

THE CITY OF EL PASO

\_\_\_\_\_  
Joe Wardy  
Mayor

ATTEST:

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Guadalupe Cuellar  
Deputy City Attorney

\_\_\_\_\_  
Terry Bond  
Human Resources Director

APPROVED BY THE CIVIL SERVICE COMMISSION ON SEPTEMBER 23, 2004.

By: \_\_\_\_\_  
Secretary

Date: September 23, 2004